IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO. 3425 OF 2004

The New India Assurance Co. Ltd. .. Petitioners

V/s

Giridhar Sampat Lanjewar & Ors. .. Respondents

Ms. R.B. Bhargava for the Petitioners.

Mr. R.M. Sawant, Government Pleader, for Respondents Nos.2 and 3.

CORAM : H.L. GOKHALE &
S.C. DHARMADHIKARI, JJ.

DATE : 24TH JANUARY 2005

P.C. :

1. Heard Ms. Bhargava for the Petitioners. Mr.Sawant, Government Pleaders, appears for Respondents Nos.2 and 3.

2. The Petitioners are aggrieved by the order passed by the Consumer Disputes Redressal Commission for the Maharashtra State on 28th October 2004 which was sought to be reviewed, but the review application also came to be rejected on 3rd November 2004.

3. Ms.Bhargava, learned counsel for the Petitioners, submitted that the complaint, which was

pending before the Commission, had to be decided by a Bench where the President of the Commission was presiding. In fact, the matter was adjourned to 30th October 2004 for that purpose by a Bench presided over by the President, but the complaint came to be allowed on 28th October 2004 by a Bench where the coram shows that the President was not present though the certified true copy shows that the said order is signed by the President. She submits that this order ought to have been reviewed. She further submits that these are errors which ought to be corrected by this Court in writ jurisdiction.

4. In our view, remedy of appeal is available against all such orders under section 19 of the Consumer Protection Act, 1986 and the First Proviso thereto provides that the National Commission may entertain an appeal after the expiry of the period of appeal where there is a sufficient cause. In the present case, this petition was filed on 17th December 2004 and has been pending before this Court thereafter. In our view, proper remedy for the Petitioners is to approach the National Commission against the impugned order and also seek condonation of delay by pointing out the above facts.

5. Petition is rejected since there is alternative remedy and efficacious remedy.

(H.L. GOKHALE, J.)

(S.C. DHARMADHIKARI, J.)